

**To:** Daly, Carl[Daly.Carl@epa.gov]; Rothery, Deirdre[Rothery.Deirdre@epa.gov]; Morales, Monica[Morales.Monica@epa.gov]  
**From:** Sutin, Elyana  
**Sent:** Tue 9/29/2015 10:03:12 PM  
**Subject:** FW: U&O Oil and Gas FIP: OGC Review and Involvement

Carl,

As I thought, Kristi's group is not really the expertise we need for the FIP. It is still not entirely clear who will be our OGC contact(s). Most likely Rick Vetter will be but my office needs to have larger discussion with folks in OGC about what that will look like. In the meantime, Kim and Kimi will cover for me while I am out 10/1-10/12. I have asked Sara Laumann to be my backup on any CAA questions that may pop-up in my absence. She has agreed but all the attorneys would prefer that you go through Kimi or Kim first and they will be in touch with Sara. I just wanted you to know that there is someone to help out if needed.

Thanks,

Elyana Sutin | EPA Region 8 | Regional Judicial Officer

Associate Regional Counsel

303.312.6899 | sutin.elyana@epa.gov

**From:** Smith, Kristi  
**Sent:** Tuesday, September 29, 2015 8:17 AM  
**To:** Daly, Carl  
**Cc:** Sutin, Elyana; Rothery, Deirdre; Morales, Monica; Laumann, Sara; Zenick, Elliott; Vetter, Rick; Simons, Andrew  
**Subject:** RE: U&O Oil and Gas FIP: OGC Review and Involvement

Carl & Elyana –

Sorry for the delay in responding. I wanted to talk to Sara L. about who in OGC provided support on the Fort Berhold action, as I didn't think the ARLO SIP group was involved in that action. Sara confirmed that she worked with the OGC minor NSR permitting team (Rick & Elliott) and the stat/EO team (Andy Simons), plus Rick on any tribal issues generally, and did not work with the SIP group.

So I've cc'ed Rick, Andy, & Elliott here and you should work with them as needed. (And since the SIP group isn't involved, you don't need to put this the SIP Triage portal.)

Please let me know if you have any questions.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Daly, Carl  
**Sent:** Monday, September 28, 2015 6:34 PM  
**To:** Smith, Kristi  
**Cc:** Sutin, Elyana; Rothery, Deirdre; Morales, Monica  
**Subject:** U&O Oil and Gas FIP: OGC Review and Involvement

Kristi

I am following up on the email below that Elyana shared with me. We identified the Uintah & Ouray Reservation FIP as a R8 high priority on the regional work load spreadsheet. So per the

triage document, I am requesting OGC involvement in discussions/informal review now, prior to final/formal review.

This FIP would be similar to the FIP we did for oil and gas sources on the Ft Berthold Reservation a few years ago. For that FIP our OGC attorney was Rick Vetter.

We would like to propose a FIP for the U&O by the end of the year and finalize this time next year (keeping somewhat in step with the national oil and gas rules).

Let us know if you would like any more necessary information per the triage document and give me a call if you have any questions on the scope of this FIP effort.

Thanks

Carl Daly, Director

Air Program

303-312-6416

**From:** Sutin, Elyana

**Sent:** Tuesday, September 22, 2015 5:23 PM

**To:** Smith, Kristi; Lee, Michael

**Cc:** Matsumoto, Kimi; Guadagno, Tony; Varilek, Kimberly

**Subject:** RE: U&O FIP: R8 Draft Schedule & Draft To-Do List

Kristi,

# Ex. 5 - Attorney Client

Thanks,

Elyana Sutin | EPA Region 8 | Regional Judicial Officer

Associate Regional Counsel

303.312.6899 | [sutin.elyana@epa.gov](mailto:sutin.elyana@epa.gov)

**From:** Smith, Kristi

**Sent:** Tuesday, September 22, 2015 4:46 PM

**To:** Sutin, Elyana; Lee, Michael

**Cc:** Matsumoto, Kimi; Guadagno, Tony; Varilek, Kimberly

**Subject:** RE: U&O FIP: R8 Draft Schedule & Draft To-Do List

Elyana –

Sorry this was resolved in a different e-mail, but one thing that is unclear from the messages below is what kind of FIP this is – permitting, criteria pollutant, something else? We need to know the primary focus so that we know which group in OGC will take the lead. Aside from general tribal issues, what will the FIP cover?

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Sutin, Elyana

**Sent:** Tuesday, September 22, 2015 5:42 PM

**To:** Lee, Michael

**Cc:** Matsumoto, Kimi; Smith, Kristi; Guadagno, Tony; Varilek, Kimberly

**Subject:** RE: U&O FIP: R8 Draft Schedule & Draft To-Do List

**Importance:** High

ATTORNEY WORK PRODUCT – DO NOT RELEASE

Mike,

## Ex. 5 - Attorney Client

The actual notice will be ready for OGC input and coordination soon. We believe it will be beneficial to get OGC up to speed on the issues as soon as possible. Please let me

know if you have questions or if we need to discuss.

Thanks,

Elyana

Elyana Sutin | EPA Region 8 | Regional Judicial Officer

Associate Regional Counsel

303.312.6899 | [sutin.elyana@epa.gov](mailto:sutin.elyana@epa.gov)

**From:** Lee, Michael

**Sent:** Tuesday, September 01, 2015 3:06 PM

**To:** Varilek, Kimberly

**Cc:** Matsumoto, Kimi; Sutin, Elyana; Smith, Kristi; Guadagno, Tony

**Subject:** RE: U&O FIP: R8 Draft Schedule & Draft To-Do List

Kim,

I got Elyana's voice message about this earlier today, thanks for following up. Could you provide more detail on what the FIP is intended to accomplish? I have a hunch that Kristi Smith's group will have the OGC lead on this (they handle FIP & SIP actions generally) and folk in Tony's and my groups will provide support on the tribal air issues. If you envision some key tribal law issues driving this effort, then it will help to identify those early.

I've cc'd Kristi on this note to make it easier to respond to us together.

Mike

Michael G. Lee | U.S. Environmental Protection Agency

Office of General Counsel | (202) 564-5486

**From:** Varilek, Kimberly  
**Sent:** Tuesday, September 01, 2015 4:43 PM  
**To:** Guadagno, Tony; Lee, Michael  
**Cc:** Matsumoto, Kimi; Sutin, Elyana  
**Subject:** U&O FIP: R8 Draft Schedule & Draft To-Do List

Good afternoon Tony and Mike – here in Region 8, we’re working on our schedule for the potential reservation-specific FIP for the U&O. Attached is a proposed schedule for timing and as you can see, it is aggressive. I’m working on the R8 ORC team along with Elyana Sutin & Kimi Matsumoto as the primary contacts for ORC regarding this matter. We’re providing you with the draft schedule and detailed To-Do breakdown and would like to follow up with you regarding OGC’s role, primary counsel assignments, or any other questions you may have.

Please let us know if you’d like to schedule time to discuss the schedule, OGC primary counsel, or any other matter pertaining to a potential U&O specific FIP. Thank you and regards – Kim Varilek.

Kimberly D. Varilek

Associate Regional Counsel

EPA Region 8 - Office of Regional Counsel

1595 Wynkoop St.

Denver, CO 80202

(303) 312-6264